

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Senator Eleanor Vaughn, on January 20, 1993,
at 10:00 a.m.

ROLL CALL

Members Present:

Sen. Eleanor Vaughn, Chair (D)
Sen. Jeff Weldon, Vice Chair (D)
Sen. Jim Burnett (R)
Sen. John Hertel (R)
Sen. Bob Hockett (D)
Sen. Bob Pipinich (D)
Sen. Bernie Swift (R)
Sen. Henry McClernan (D)
Sen. Larry Tveit (R)

Members Excused: None.

Members Absent: Sen. Harry Fritz

Staff Present: David Niss, Legislative Council
Deborah Stanton, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 131, SB 142
Executive Action: SB 142

HEARING ON SB 131

Opening Statement by Sponsor:

Sen. Waterman, Senate District #22, explained SB 131. SB 131 is a constitutional amendment that would refer to the people of Montana the issue of holding annual rather than biannual sessions. The bill would require the Legislature to meet in annual sessions but the overall number of legislative days would not increase beyond the present 90 days biennium. Sen. Bob Brown is the co-sponsor of SB 131 on behalf of the Montana Legacy Legislature. The present system is not working and it is the belief of the Legacy Legislature and the co-sponsors that this bill will assist in providing an efficient and effective legislative system. There are a number of proposals on how the

legislative days are divided. One is a sixty/thirty system, where the Legislature meets 60 days one year to consider the budget and 30 days the next year to consider general bills. There is a fifty/forty suggestion and a 45 days/45 days suggestion. The Constitution should mandate the total number of days and Montanans do not favor increasing the number of days so the bill limits the number of days to ninety. The date of the election for the submission of the ballot issue is November 1994. The Legislature would have the 1995 session to set up the mechanism for the annual session with the annual sessions beginning in January 1996.

Sen. Brown, Senate District #2, was a co-sponsor of SB 131. Sen. Brown and Sen. Burnett experienced annual sessions in the past. The criticism of annual sessions was, a bill didn't necessarily die at the end of the Legislative session. It could be kept alive during the interim period, so sometimes interest groups who had to fight to kill it, had to do the same thing a year later. There was a feeling in Helena that the Legislators were entitled to one year hiatus to heal up before they had to come back and face the onslaught all over again. This was the period when there was a lot of legislative activism, a lot of new laws and a lot of laws passed during the 1970's. So there was a feeling that government was moving too far too fast. The people voted annual legislative sessions out for those and other reasons. SB 131 would impose annual sessions, not the way they were before, but with limitations. Where before a bill could carry over from one session to the next, this legislation would not allow that to happen. In addition, where the other proposal provided for sixty day sessions in each year, this year would provide for 45 days in each year so it would not extend the constitutionally allotted 90 days beyond where it is today, unless the Legislature decided to call itself into special session as the Legislature has the power to do now. When the Legislature met in 1987 they were asked to approve \$25.8 million in supplementals. The Legislature did not approve the money before the fact, they hadn't foreseen the expenditures but two years after the budget was put together the Legislature was obligated to pay the bill. The same thing happened in 1989, there was \$17.1 million in supplementals. In 1991, there was \$19.8 million in supplementals. In 1993, \$48.2 million and this time we're asked to come up with \$67.5 million. These amounts are increasing, approximately \$180 million that the elected Board of Directors of the State of Montana had never passed judgement on before the fact but ended up having to cover the costs after the fact. If the Legislature met every year, they could examine the budget every year and not have to try to project almost two years into the future. The Legislature could do a better job overseeing those expenditures. We essentially meet annually now having special sessions. In the same period that we covered \$180 million in expenditures after the money was already spent, we had six special sessions of the Legislature that totaled 72 days. It's time to give the people an opportunity to have annual sessions again in a more limited manner than the brief experience in the 1970's.

Proponents' Testimony:

Herman Wittman spoke in favor of SB 131 on behalf of the Legacy Legislature. SB 131 originated in the Legacy Legislature. Many of the bills that come from the Legacy Legislature are not only in favor of the senior citizens but all the people of the State of Montana. SB 131 provides for more continuity in the legislative process. The administration is operating on annual budgets now. The League of Women Voters are also in favor of SB 131. There are many talented people who would and could serve on the Legislature if they could be away from their job a shorter period of time. With 90-day sessions about four months is required away from the job. With 45-day sessions more people would be willing to serve.

Verner Bertelson, representing the Legacy Legislature, spoke in favor of SB 131 and gave written testimony (EXHIBIT #1).

Amy Kelley, Executive Director of Common Cause, gave written testimony (EXHIBIT #2).

Margaret Flemming, Montana Legacy Legislature, spoke in favor of SB 131 on behalf of Montana State Senior Association, and on behalf of the National Association of Retired Federal Employees. She spoke of the issue of disenchantment with government. The Legislature "is there all the time and nothing gets done." If there were annual sessions it would be an orderly process, considering the concerns of Montanans, and by the same token, it would indicate to the public that there is some control. It must be hard on the legislators, as hard as they work, with the perception that they didn't do anything so they have to go back in Special Session. This would be a good time for Montana to change to annual sessions.

Clyde Daly, Executive Director of the Montana Senior Citizens spoke in favor of SB 131. He was here during the last session until 3:00 a.m. on the last day, with a sort of "Midnight Massacre" thing going on, that this constitutional change could avoid in the future. One of the issues today is health care. One of the reasons for health care reform legislation is the increase in Medicaid at 14% per year. It's difficult for the Legislature to maintain a good "watch" on just that section of the budget. While it's a large section, it points to the need of a more consistent approach and for that reason he urges passage of SB 131.

Gordon Morris appeared in support of SB 131 for all of the reasons stated.

Joe Schwab, President of Montana Legacy Legislature, spoke in favor of SB 131. People have had to adapt to changes in society and people in Montana will have to adapt and join the large group of states who meet on an annual basis.

Riley Johnson, Montana Federation of Independent Business, representing 8,600 members in Montana rose in very limited support of SB 131. The members were polled on the last several ballots asking about split sessions and annual sessions. In 1991 43% of the members were in favor of annual sessions, 40% against annual sessions, and 18% undecided. He expressed concern over the fact that although many in the Legislature or aligned with the Legislature feel that annual sessions are an answer to some problems, that the public may not want annual sessions. Annual sessions can solve some problems. Lines 21 through 24 of the bill limit to 90 days for any term of the Legislator currently elected but then it says the Legislature shall by law limit the length of each regular session in the biennium but any Legislature may increase the 90-day limit on the length of regular sessions in the subsequent biennium. So if the \$5.5 million biennial session is not working on a 60/30 day the Legislature has the authority to increase that and increase the cost. On one point the bill says, it's limited to 90 days and then it says it can be changed. A lot of members are fearful of this happening. There doesn't seem to be any control. The costs are a great concern. The survey was not based entirely on annual sessions. It was called split sessions and at that point it was referring to having a 30-day budgetary session the first year and a 60-day bill session the second year. If it went to the vote of the people it would be down to the wire again.

Opponents' Testimony:

Lorna Frank, representing 4500 Montana Farm Bureau members through the state, spoke against SB 131. The Montana Farm Bureau opposes annual sessions and have ever since 1970. At that time the people in the state were very upset with the Legislature and the Legislative process. They felt the cost of the annual sessions outweighed the benefits. The job of the Legislature is to legislate not administrate. If the Legislature would and could figure out how much money they have to spend before they spend it and stay within that budget there would be no need for special sessions. The people of the state have turned down this proposal before and they will again. It would be a waste of time and money to be put on the ballot at this time.

Questions From Committee Members and Responses:

Sen. Tveit asked Sen. Waterman about the 90-day limit. The people of Montana will not go for extending the 90-day limit unless you make it more specific, limiting the number of bills. Sen. Waterman said the Constitution now reads "any Legislature may increase the limit on the length of any subsequent sessions." That has been in the Constitution since 1972 and the option has never been used. If the committee would like to delete the language that is presently in the Constitution you could do that. The number of bills would be limited either by rules or by statute.

Sen. Hockett asked Sen. Waterman about a fiscal note for the cost of annual versus biennial sessions. Sen. Waterman said the fiscal note was determined not to be needed. Sen. Hockett stated there would be cost involved with caucuses prior to the session, and it also involves people on staff, so he would like to see a fiscal note for SB 131.

Sen. Weldon asked Sen. Waterman about the cost involved. People in the West are distrustful of government. That is the root of this concern. How would an argument go now convincing the people that it would be better for Montana to have annual sessions? Sen. Waterman stated the last time it was voted on, the ballot issue increased the number of days to 100. She expressed a basic faith in Montanans and if Montanans did not want annual sessions then there should not be annual sessions. She has been approached by a number of Montanans who said they believed it was time to consider this issue again.

Sen. Swift asked Sen. Waterman about the cost, over the years, of special sessions and supplementals. There really is no control over departmental budgeting procedures. How is this bill going to improve this situation? Special sessions are held for one reason, over budget. How will this cure the problem? Sen. Waterman said the budgets are developed three years in advance and the costs are not predictable. If the budgets were developed annually there would be more control and it would provide the opportunity to implement measures as costs go up. Sen. Waterman said "that's been the reason for annual sessions in the past."

Sen. Swift asked if restrictions could be put in place now. He said we could now restrict cost so the programs could not expand. Sen. Waterman said the costs could not be predicted. The reason the programs are expanding is the federal dollars drive those programs and we don't know if those monies are going to be available. Sen. Waterman said the increase is in the Medicaid area, a dramatic increase is caseload and cost of caseload. We're not able to accurately predict those costs. Sen. Swift agreed. Sen. Waterman stated Sen. Swift just made an argument in favor of annual sessions.

Sen. Hockett asked Amy Kelley of Common Cause about the comment that citizens are not able to participate in the legislation process now. Ms. Kelley said it was difficult to get citizens involved. Sen. Hockett said Montana was one of the most open states as far as citizen participation. He asked Ms. Kelley for examples of how annual sessions would be more favorable to citizen participation. Ms. Kelley said the idea of getting citizens involved is very hard to do when there is, for example, short notices of hearings especially toward the end of the session. If the bills were spread out there might be more opportunity for citizens to know when a bill is coming up and to address their concerns. It would eliminate crisis management.

Sen. Hockett asked Lorna Frank from the Farm Bureau how the present system is unfair to private citizen participation. Ms. Frank said implementing annual sessions would not make it easier for people to come.

Sen. Tveit asked David Niss about the 90-day limit in the constitution. Why was new language put in the bill and why wouldn't the two 90-day sessions over two year period be in guidelines with the Constitution. Are we duplicating the 90 days? In the Constitution it says we meet 90 days every two years. Now we're putting language in that we're going to meet 90 days every two years and also; adding "during the term for which the members are elected." That's already in the constitution. Why are we adding new language, because we act under that concept right now. David Niss said the language "during the term for which the members are elected" is not current law. Sen. Tveit said the people won't vote for it. This bill is giving the legislature the right to extend the sessions.

Sen. Weldon asked Sen. Waterman how annual sessions improve and strengthen the democratic process. Sen. Waterman said Montana government is open and accessible. For citizens it is confusing. If we were dealing with the budget and legislative sessions in each of those annual sessions it would lessen the pressure cooker situation.

Sen. Weldon asked if annual sessions would improve accountability. One session would be budgetary and one would be executive branch accountability to the legislative branch. An example is executive appointments. This committee is charged with approving the appointments of the Governor. Oftentimes through the biennial legislative sessions by the time the committee gets the appointments to consider the appointments have expired. It seems the executive branch would be much more accountable.

Sen. McClernan asked about amending the bill limiting the amount of legislation. Sen. Waterman said it was not an appropriate proposal for ten years down the road.

Mr. Bertelson stated there was a minimal additional cost in having annual sessions in a lot of states he has contacted.

Closing by Sponsor:

Sen. Waterman stated Montana needs an effective legislature. The cost for having annual sessions is not close to what it costs for special sessions. Montanans want and deserve a legislature that operates in a businesslike manner and annual sessions will allow the Legislature to get the job done and to go home without continually returning to Helena for special sessions.

Sen. Vaughn asked Sen. Waterman if she would request a fiscal note. Sen. Waterman answered that she would.

HEARING ON SB 142

Opening Statement by Sponsor:

Sen. Aklestad, Senate District #6, presented SB 142. SB 142 would be a constitutional amendment that would go before the people in the general election this fall to provide time limits for Governor's action. The constitution gives the governor 5 days for consideration while the Legislature is in session and 25 days to sign a bill when not in session. SB 142 will allow for 10 days while in session and 10 days when Legislature is not in session.

Proponents' Testimony:

Greg Petesch, representing the Legislative Council, told the committee SB 142 was introduced at the request of the Legislative Council but was a product of a cooperative effort of the Stephens Administration and has no objection from the current Governor's administration. The reason this is proposed is because of several small problems that have arisen over time. While the Legislature is in session the Governor has more options with the bill and the current Constitution limit give him 5 days. While the Legislature is in session the Governor may propose amendments to legislation that is on his desk. That option is not available to him after the Legislature has adjourned. The reduction of the time at the end of the session was originally written into the Constitution because of the tremendous flood of legislation that is placed on the Governor's desk as the Legislature adjourns. That practice has diminished over time and because of the availability of information, that we have now that was not available then, the Governor presently has a good idea at the end of the session whether he is going to absolutely oppose or support a piece of legislation. The problem that the legislative council had with the 25 day period occurs in limited instances. That's where the Governor waits the entire 25 days and then vetoes a bill that the legislature approved by a two thirds majority so the polling provision of the Constitution is invoked. When that happens, by the time it is known whether that law is affective or not the Legislature has been gone for approximately 2 1/2 months. The Legislative Council cannot perform any of the publishing functions until that determination is in so it pushes all of the deadlines for getting the information to the public back by over 2 1/2 months. That happened in both of the last regular legislative sessions. It is a serious concern for letting the public know what happened because the Legislative Council cannot print anything until a determination is made. The other thing this clears up is when does the time period begin to run. The question of whether the bill was delivered when you were in session or not used to result in some shenanigans being

played by both the Legislature and the Governor's office. If you wanted to get the bill to the Governor's office while you were in session sometimes in order to limit the time consideration bills were left outside the Governor's office door or recorded in the journal as having been delivered to the Governor. IF the Governor wanted the full 25 days he would lock his door and not accept receipt. This will eliminate this concern because ten days whether in or out of session will determine the time period.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Sen. Weldon asked Sen. Aklestad if the current Governor has been contacted regarding this bill. Sen. Aklestad said he has and he has no problem with this bill.

Closing by Sponsor:

Sen. Aklestad stated there was no problem with the existing administration. It is a good bill for any administration and it's a more workable situation for the Governor, for the Legislature and it's good for the public. He urged support of SB 142.

EXECUTIVE ACTION ON SB 142

Motion: Sen. Weldon moved SB 142 DO PASS.

Discussion: None.

Vote: The motion SB 142 DO PASS carried 9 to 1 with Sen. Tveit voting yes by proxy and Sen. Fritz absent.

ADJOURNMENT

Adjournment: 11:30 a.m.



SENATOR ELEANOR VAUGHN, Chair



DEBORAH STANTON, Secretary

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 20, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 142 (first reading copy -- white), respectfully report that Senate Bill No. 142 do pass.

Signed: Eleanor Vaughn
Senator Eleanor Vaughn, Chair

Testimony on S.B. 131 - by Sen. Waterman & Sen. Brown -

THE CASE FOR ANNUAL SESSIONS

Madam Chairperson - Members of the Senate State Administration Committee - I am Terence Bertelsen, today I am representing the Montana Legacy Legislature on S.B. 131.

Montana's Legacy Legislature believes it is time that Montana join the Majority of states which have annual sessions. Montana is one of only ^{six} ~~seven~~ states which do not hold annual legislative sessions. Montana should join the 20th century.

Montana Legacy Legislature is asking the state legislature to pass legislation calling for a state referendum on whether to change our 90 day biennial legislative session to annual sessions to a total of not more than 90 days. The legislature would be required to apportion the allowable legislative days between sessions and provide ~~ing~~ the parameters of each session. This referendum should be placed on the ballot in the general election of November, 1994. This amendment would be effective January 1, 1996. *If the amendment passes the legislature would be able to deal with this issue in the 1995 session as to length of sessions and what should be considered in each session.*

Since Montana operates on an annual budget, annual sessions would provide for much better coordination and control of state budgets. They would also provide greater ability to coordinate with federally funded programs and federal grants which often become available on an annual basis.

Certainly the process of holding special sessions to deal with emergencies is not conducive to carefully considered legislation. Special sessions do not provide an opportunity for full citizen participation in the legislative process.

SENATE STATE ADMIN.
EXHIBIT NO. 1
DATE 1-20-93
BILL NO. SB 131

Special sessions are also a costly legislative procedure, since 1981 Montana has spent 2.9 million on special sessions, of that amount ~~\$501,107~~ ^{876,548} was spent during the last 3 years. We believe that a majority of these funds could be saved by annual sessions.

Special sessions are also very disruptive to the lives of legislators, often coming at a very inconvenient and unplanned time in their lives. Many people who would like to serve in the legislature could more easily serve if they were required to be away from their business for only the shorter annual session. We feel this could easily increase the opportunity for many to serve in the legislature. New legislators would also become better versed in the legislative process and by the second annual session be able to more fully participate in the legislative process.

In 1982-83 practically every major newspaper in Montana carried editorials in support of annual sessions. Those reasons are even more valid today. As the complexities of state government continue to grow so does the need for annual sessions. Establishing annual sessions is a step in the right direction which Montana should take now.

MONTANA LEGACY LEGISLATURE, INC.

Contract: Verner Bertelsen, Lobbyist
1800 Winne Avenue
Helena, MT 59601

Telephone: 442-2279



SENATE STATE ADMIN.

EXHIBIT NO. 2

DATE 1-20-93

BILL NO. SB 131

COMMON CAUSE TESTIMONY
IN SUPPORT OF SB 131
JANUARY 20, 1993

P.O. Box 623
Helena, MT
59624
406/442-9251

Madame Chair, members of the Senate State Administration Committee, for the record my name is Amy Kelley, Executive Director for Common Cause/Montana.

Common Cause/Montana is a nonprofit, nonpartisan citizen group of more than 800 members working to promote more open and accessible democratic government in Montana.

On behalf of those members, I wish to register our support for SB 131, calling for a constitutional amendment to split Montana's current biennial 90-day legislative session into two annual sessions.

As you all are intimately aware, the scope and severity of problems the Montana Legislature must address grow in number and complexity every year. This session presents perhaps the best example of this to date.

This situation has come about for two reasons. First, decreased regulation and federal budget cuts since 1980 has shifted much decision-making from the federal government to the states. Second, the difficulties in enacting long-term solutions has led the legislature has in recent years to opt for less painful temporary solutions. That has forced this body to regroup in annual special sessions.

Decisions to solve complex problems cannot be made in the rushed "pressure cooker" environment of the current biennial 90-day session model. Public participation suffers as well, as citizens are often unaware of committee hearings or unable to speak out given the rapid-fire schedule.

In short, crisis management has become the rule, with major legislation being pushed through or killed in the final days of a session with little debate or public scrutiny.

Montana is not the only state that has faced this problem. The national trend has been toward annual or split sessions.

In 1939, 44 states had biennial sessions.
By 1961, that number decreased to 31.
Today, Montana is one of only seven
states with biennial sessions.

In 1987, two-thirds of the Montana Legislature voted to place on the ballot a constitutional amendment to establish split sessions. Common Cause and a variety of citizen groups and legislators worked hard to support that amendment.

The final vote was a close 49 for and 51% against. Common Cause felt the major reason for that failure was a deceptively high fiscal note placed on the ballot -- which did not adequately reflect the savings involved in eliminating the need for special sessions.

Montana has no need for, nor could it afford, a full-time legislature. However, Montana needs a more timely and responsive method of lawmaking that meets the increased demands placed upon the Legislature.

Split sessions can achieve that goal. They would:

- * promote better dissemination of information to the public, and better participation by the public in the process.
- * allow the Legislature to address policy issues in odd-numbered years, and revenue and appropriations matters in even-numbered years.
- * encourage more citizens to run for office, citizens in occupations excluded due to the long four-month session.
- * potentially eliminate the need for COSTLY emergency special sessions.
- * reduce legislator and public "burnout."
- * promote higher quality bill drafting.
- * use taxpayer money more efficiently.

Splitting the current biennial legislative session into two annual sessions makes sense for Montana. We strongly urge a "do pass" from this Committee on SB 131.

53rd LEGISLATIVE SESSION

STATE ADMINISTRATION COMMITTEE

I, Senator Truitt do hereby submit my
vote to Chairman Vaughn as follows:

BILL NUMBER SB 142

MOTION

Do Pass Yes No

Do Not Pass Yes No

Indefinitely Postponed Yes No

Tabled Yes No

1/20/93
DATE

Don Truitt
SIGNATURE

DATE 1-20-93

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: SB 131, SB 142

Name	Representing	Bill No.	Check One	
			Support	Oppose
JOE SCHWAB	LEGACY LEGISLATURE	SB 131	X	
Kerker Bertelsen	" "	SB 131	X	
Clyde Dierley	Mt. Union City ASSO	SB 131	X	
ED Caples	MSCA	SB 131	X	
Margaret Flannery	MSCA, ^{NARFE} Leg. Assn	SB 131	X	
Herman Wittman	Legacy Legislature ^{NARFE}	SB 131	X	
Dordon Morris		SB 131	X	
AMY KELLEY	COMMON CAUSE	SB 131	X	
Lorna Frank	Mt. Farm Bureau	SB 131		X
Amy Release	Leg Council	SB 142		
RILEY JOHNSON	NFIB	SB 131	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY